

UNITED STATES OF AMERICA
DISTRICT COURT
DISTRICT OF MASSACHUSETTS

VILEIKA SOTO-NUNEZ

V.

IN RE: \$75,980 IN U.S. CURRENCY

CASE NO. 21-CV-91755-RGS

EXHIBITS IN SUPPORT OF
RULE 41(g) MOTION FOR RETURN OF PROPERTY

Exhibit No.	Description
1	Receipt for Seized \$75,980 in U.S. Currency
2	Notice of Seizure/Intent to Forfeit
3	Claim Cover Letter
4	Claim
5	Postal Receipt
6	December 9, 2021 Letter to DEA
7	October 6, 2021 Letter from DEA

Respectfully Submitted
VILEIKA SOTO-NUNEZ
By her Attorney:

/s/ Thomas Kerner

THOMAS KERNER
MA BBO # 552373
Attorney at law
343 Commercial Street
Boston, MA 02109
(617) 720-5509
thomas.kerner@comcast.net

Exhibit 1 (Receipt)

POLICE DEPARTMENT OF THE CITY OF BOSTON

Received of

VILEIKA NUNES

6/8 2021

ricard
@usdoj.gov

Perla Gonzalez

(sister of chimant)

617-504-5540

Detective John Ricard

Boston Police

Drug Control Unit

BPD Form 8 01/06 forms.cdr

POLICE DEPARTMENT OF THE CITY OF BOSTON

Received of

2

one box of unknown amount of USC
Nike shoe box inside blue bag

BPD Form 8 01/06 forms.cdr

WITNESSED
TAN JAMES COOPER

6/8/21

POLICE DEPARTMENT OF THE CITY OF BOSTON

Received of

2

BPD Form 8 01/06 forms.cdr

417-504-5840

Detective John Ricard Boston Police
Drug Control Unit

BPD Form 8 01/06 forms.cdr

POLICE DEPARTMENT OF THE CITY OF BOSTON

Received of

one box of unknown amount of USC
Nike shoe box inside blue bag

Witnessed

TRN JAMES CORCORAN

BPD Form 8 01/06 forms.cdr

6/8/21

POLICE DEPARTMENT OF THE CITY OF BOSTON

Received of

BPD Form 8 01/06 forms.cdr

Exhibit 2
(Notice of Seizure/Intent to Forfeit)

Vileika Soto-Nunez
70 Bragdon Street
Apartment 1
Boston, MA 02119

NOTICE OF SEIZURE OF PROPERTY AND INITIATION OF ADMINISTRATIVE FORFEITURE PROCEEDINGS

SEIZED PROPERTY IDENTIFYING INFORMATION

Notice Date: August 5, 2021	Asset ID Number: 21-DEA-679338
Notice Letter ID: 286491 (use ID when searching for assets during online filing)	
Description of Seized Property: \$75,980.00 U.S. Currency	
Seizure Date and Location: The asset(s) referenced in this notice letter were seized on June 8, 2021 by the DEA at Boston, Massachusetts.	
Forfeiture Authority: The forfeiture of this property has been initiated pursuant to 21 USC 881 and the following additional federal laws: 19 U.S.C. §§ 1602-1619, 18 U.S.C. § 983 and 28 C.F.R. Parts 8 and 9.	

THE GOVERNMENT MAY CONSIDER GRANTING PETITIONS FOR REMISSION OR MITIGATION, WHICH PARDONS ALL OR PART OF THE PROPERTY FROM THE FORFEITURE.

TO REQUEST A PARDON OF THE PROPERTY YOU MUST FILE A PETITION FOR REMISSION OR MITIGATION

- A. **What to File:** You may file both a claim (see section II below) and a Petition for Remission or Mitigation (Petition). If you file only a petition and no one else files a claim, your petition will be decided by the seizing agency.
- B. **To File a Petition:** A petition should be filed online or by mailing it via the U.S. Postal Service or a Commercial Delivery Service to the Drug Enforcement Administration (DEA), Forfeiture Counsel, Asset Forfeiture Section 8701 Morrisette Drive, Springfield, VA 22152. It must be received no later than 11:59 PM EST thirty (30) days of your receipt of this Notice. See 28 C.F.R. Parts 8 and 9.
- C. **Requirements for Petition:** The petition must include a description of your interest in the property supported by documentation and any facts you believe justify the return of the property and be **signed under oath**, subject to the penalty of perjury or meet the requirements of an unsworn statement under penalty of perjury. See 28 U.S.C. § 1746.
- D. **Petition Forms:** A petition need not be made in any particular form but a standard petition form and the link to file the petition online are available at <https://www.forfeiture.gov/FilingPetition.htm>. If you wish to file a petition online for the assets referenced in the asset list of this letter, please use the Notice Letter ID referenced above.
- E. **Supporting Evidence:** Although not required, you may submit supporting evidence (for example, title paperwork or bank records showing your interest in the seized property) to substantiate your petition.
- F. **No Attorney Required:** You do not need an attorney to file a petition. You may, however, hire an attorney to represent you in filing a petition.
- G. **Petition Granting Authority:** The ruling official in administrative forfeiture cases is the Forfeiture Counsel. The ruling official in judicial forfeiture cases is the Chief, Money Laundering and Asset Recovery Section, Criminal Division, Department of Justice. See 28 C.F.R. § 9.1.
- H. **Regulations for Petition:** The Regulations governing the petition process are set forth in 28 C.F.R. Part 9, and are available at www.forfeiture.gov.
- I. **Penalties for Filing False or Frivolous Petitions:** A petition containing false information may subject the petitioner to criminal prosecution under 18 U.S.C. § 1001 and 18 U.S.C. § 1621.

Vileika Soto-Nunez

Notice of Seizure

- J. **Online Petition Exclusions:** If you cannot find the desired assets online, you must file your petition in writing at the address listed above. For more details regarding what assets can be petitioned online, please see the Frequently Asked Questions at <https://www.forfeiture.gov/FilingPetitionFAQs.htm>.

II. TO CONTEST THE FORFEITURE OF THIS PROPERTY IN UNITED STATES DISTRICT COURT YOU MUST FILE A CLAIM. *If you do not file a claim, you will waive your right to contest the forfeiture of the asset. Additionally, if no other claims are filed, you may not be able to contest the forfeiture of this asset in any other proceeding, criminal or civil.*

- A. **To File a Claim:** A claim must be filed to contest the forfeiture. A claim should be filed online or by mailing it via the U.S. Postal Service or a Commercial Delivery Service to the DEA, Forfeiture Counsel, Asset Forfeiture Section 8701 Morrisette Drive, Springfield, VA 22152.
- B. **Time Limits:** A claim must be filed within 35 days of the date of this letter; therefore, you must file your claim by **11:59 PM EST on September 09, 2021**. See 18 U.S.C. § 983(a)(2). A claim is deemed filed on the date received by the agency at the address listed above.
- C. **Requirements for Claim:** A claim must be filed online or in writing, describe the seized property, state your ownership or other interest in the property and be **made under oath**, subject to penalty of perjury or meet the requirements of an unsworn statement under penalty of perjury. See 18 U.S.C. § 983(a)(2)(C) and 28 U.S.C. § 1746.
- D. **Claim Forms:** A claim need not be made in any particular form, but a standard claim form and the link to file the claim online are available at <https://www.forfeiture.gov/FilingClaim.htm>. See 18 U.S.C. § 983(a)(2)(D). If you wish to file a claim online for the assets referenced in the asset list of this letter, please use the Notice Letter ID referenced above.
- E. **Supporting Evidence:** Although not required, you may submit supporting evidence (for example, title paperwork or bank records showing your interest in the seized property) to substantiate your claim.
- F. **No Attorney Required:** You do not need an attorney to file a claim. You may, however, hire an attorney to represent you in filing a claim.
- G. **When You File a Claim:** A timely claim stops the administrative forfeiture proceeding. The seizing agency forwards the timely claim to the U.S. Attorney's Office for further proceedings. You may also file a petition for remission or mitigation.
- H. **Penalties for Filing False or Frivolous Claims:** If you intentionally file a frivolous claim you may be subject to a civil fine. See 18 U.S.C. § 983(h). If you intentionally file a claim containing false information, you may be subject to criminal prosecution. See 18 U.S.C. § 1001.
- I. **If No Claim is Filed:** Failure to file a claim by **11:59 PM EST on September 09, 2021** may result in the property being forfeited to the United States.
- J. **Online Claim Exclusions:** If you cannot find the desired assets online, you must file your claim in writing and send to the address listed above. For more details regarding what assets can be claimed online, please see the Frequently Asked Questions at <https://www.forfeiture.gov/FilingClaimFAQs.htm>.

II. TO REQUEST RELEASE OF PROPERTY BASED ON HARDSHIP

- A. **Hardship Release:** Upon the filing of a proper claim, a claimant may request release of the seized property during the pendency of the forfeiture proceeding due to hardship if the claimant is able to meet specific conditions. See 18 U.S.C. 983(f); 28 C.F.R. § 8.15.
- B. **To File Hardship Release:** The hardship request cannot be filed online and must be in writing. The claimant must establish the following:
- Claimant has a possessory interest in the property;
 - Claimant has sufficient ties to the community to assure that the property will be available at the time of trial; and
 - Government's continued possession will cause a substantial hardship to the claimant.
- C. **Regulations for Hardship:** A complete list of the hardship provisions can be reviewed at 18 U.S.C. § 983(f) and 28 C.F.R. § 8.15. Some assets are not eligible for release.

Exhibit 3
(Claim Cover Letter)

J. Thomas Kerner

ATTORNEY AT LAW

September 3, 2021

DEA
Forfeiture Counsel
Asset Forfeiture Section
8701 Morrisette Drive
Springfield, VA 22152

Re: Asset Id 21-DEA-679338
Notice Letter ID 286491
Property: \$75,980.00 U.S. Currency
Asset Value: \$75,980.00
Seizure Date: 6/8/2021
Seizure Place: Boston, MA
Seized From: Vileika Soto-Nunez
Judicial District: District of Massachusetts

To Whom It May Concern:

I am writing on behalf of Vileika Soto-Nunez. I represent Ms. Soto-Nunez.

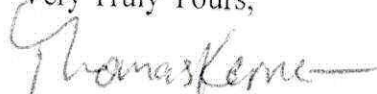
On June 8, 2021 Boston Police Detective John Ricard and Massachusetts State Police Trooper/DEA TFA Jaime Cepero seized from Ms. Soto-Nunez a bag which contained \$75,980.00 in U.S. Currency.

Ms. Soto-Nunez has signed a claim under oath and demands the return of the currency and the right to contest any attempt to forfeit the currency in the United States District Court for the District of Massachusetts.

I will accept service of any civil forfeiture complaint which may be filed.

Thank you.

Very Truly Yours,


J. Thomas Kerner

TK/ms

EJ 808 896 673 US



Exhibit 4 (Claim)

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION

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=====
Asset Id                21-DEA-679338                #
Notice Letter ID       286491                      #
Property:              $75,980.00 U.S. Currency      #
Asset Value:           $75,980.00                  #
Seizure Date:          6/8/2021                    #
Seizure Place:         Boston, MA                   #
Seized From:           Vileika Soto-Nunez           #
Judicial District:     District of Massachusetts    #
=====
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**CLAIM AND
DEMAND TO CONTEST FORFEITURE IN UNITED STATES DISTRICT COURT**

Claim: Ms. Vileika Soto-Nunez claims a possessory interest in the \$75,980.00 in United States currency seized from her by law enforcement officers on June 8, 2021. The currency had been given to Ms. Soto-Nunez to hold and keep safe by the owner of the currency.

Demand: Ms. Vileika Soto-Nunez demands the return of the seized currency and the right to contest any attempt to forfeit the currency in the United States District Court.

Ms. Soto-Nunez denies the United States Government's contention that the currency is subject to forfeiture for the reasons stated in the August 5, 2021 Notice of Seizure and Intent to Forfeit. Additionally, the currency should be returned because it was seized during an illegal search.

Sworn to under pains and penalties of perjury on this 27th day of August, 2021.

Vileika Soto
Vileika Soto-Nunez

Exhibit 5
(Postal Receipt)

USPS Tracking®

[FAQs >](#)[Track Another Package +](#)**Tracking Number:** EJ808896673US[Remove X](#)**Scheduled Delivery by****SATURDAY****4**SEPTEMBER
2021 ⓘ

by

6:00pm ⓘ **Delivered**September 7, 2021 at 10:33 am
SPRINGFIELD, VA 22152[Feedback](#)**Get Updates** ▾

Text & Email Updates

Proof of Delivery

Tracking History

Product Information

See Less ^

Exhibit 6
(December 9 Letter to DEA)

J. Thomas Kerner

ATTORNEY AT LAW

December 9, 2021

DEA
Forfeiture Counsel
Asset Forfeiture Section
8701 Morrisette Drive
Springfield, VA 22152

Re: Asset Id 21-DEA-679338
Notice Letter ID 286491
Property: \$75,980.00 U.S. Currency
Asset Value: \$75,980.00
Seizure Date: 6/8/2021
Seizure Place: Boston, MA
Seized From: Vileika Soto-Nunez
Judicial District: District of Massachusetts

Forfeiture Counsel:

I am writing on behalf of Vileika Soto-Nunez. I represent Ms. Soto-Nunez. This is a demand for the return of \$75,980.00 in U.S. Currency seized from Ms. Soto-Nunez by a DEA Task Force Agent [TFA].

On June 8, 2021 DEA TFA/Massachusetts State Police Trooper Jaime Cepero and Boston Police Detective John Ricard seized from Ms. Soto-Nunez a bag which contained \$75,980.00 in U.S. Currency. A Notice of Seizure and Intent to Forfeit was sent to Ms. Soto-Nunez by the DEA. In a timely manner, Ms. Soto-Nunez filed a claim and demanded the return of the seized currency.

Ms. Soto-Nunez signed a claim under oath and demanded the return of the currency and the right to contest any attempt to forfeit the currency in the United States District Court for the District of Massachusetts. Ms. Soto-Nunez's claim and demand was received by the DEA's Asset Forfeiture Section on September 7, 2021.

Pursuant to 18 U.S.C., §983(a)(3)(A), the United States was supposed to either file a forfeiture complaint within 90 days of the DEA's September 7, 2021 receipt of the claim or return the funds. More than 90 days have passed since the DEA received Ms. Soto-Nunez's claim and demand. A forfeiture complaint has not been filed. Accordingly, I am respectfully demanding that the funds be returned.

Ms. Soto-Nunez's claim was sufficient to establish her as a valid claimant. United States v.

\$515,060.42 in U.S. Currency, 152 F.3d 491 (6th Cir. 1998) and 18 U.S.C. §983(a)(2)(C)(ii). In order to establish claimant status to contest a governmental forfeiture action, an individual must have statutory standing through compliance with the Supplementary Admiralty and Maritime Claims Rule C(6). See United States v. Currency \$267,961.07, 916 F.2d 1104, 1107 (6th Cir. 1990). Naked possession claims are insufficient to establish standing. See United States v. \$191,910.00 in U.S. Currency, 16 F.3d 1051, 1058 (9th Cir. 1994). The assertion of simple physical possession of property as a basis for standing must be accompanied by factual allegations regarding how the claimant came to possess the property, the nature of the claimant's relationship to the property and/or the story behind the claimant's control of the property. See United States v. 526 Liscum Dr., 866 F.2d 213, 216 (6th Cir. 1989) and United States v. \$321,470.00 U.S. Currency, 874 F.2d 298, 303-304 (5th Cir. 1989).

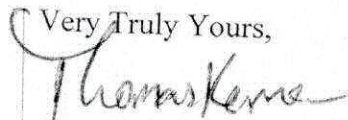
In order to sufficiently establish one's status as a claimant, a person must have a colorable ownership, possessory or security interest in at least a portion of the defendant property. See United States v. 16510 Ashton, 47 F.3d 1465, 1470 (6th Cir. 1995). Colorable claims which confer standing may include property interest less than ownership. United States v. Currency Totaling \$48,318.08, 609 F.2d 210, 214 (5th Cir. 1980) (valid assignee has standing to challenge forfeiture). A bailee with a possessory interest in bailed currency has sufficient standing to establish claimant status. United States v. \$122,043.00 in U.S. Currency, 792 F.2d 1470, 1473 (9th Cir. 1986). An individual who asserts that he is a bailee of the seized funds is a valid claimant. See United States v. U.S. Currency in Sum \$185,000, 455 F.Supp.2d 145 (E.D. N.Y. 2006) citing Mercado v. U.S. Customs Serv., 873 F.2d 641, 645 (2d Cir.1989).

Ms. Soto-Nunez was in possession of the bag which contained \$75,980.00 in U.S. Currency when, on June 8, 2021, the bag was seized by DEA TFA/Massachusetts State Police Trooper Jaime Cepero and Boston Police Detective John Ricard. Additionally, in her claim sent to the DEA's Asset Forfeiture Section, Ms. Soto-Nunez stated that the currency had been given to Ms. Soto-Nunez by the owner of the currency to hold and keep safe. Accordingly, Ms. Soto-Nunez claim is sufficient to establish her as a claimant. She was a valid bailee in possession of the property.

Please contact me to arrange the return of the seized currency.

Thank you.

Very Truly Yours,


Thomas Kerner

cc: U.S. Attorney/Dist. MA
Forfeitures

TK/ms

Exhibit 7
(October 6 Letter from DEA)

U.S. Department of Justice
Drug Enforcement Administration

www.dea.gov

10/06/2021

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

J. Thomas Kerner
240 Commercial Street
Suite 5A
Boston, MA 02109

RE: Asset I.D. No.: 21-DEA-679338
Property: \$71,980.00 U.S. Currency
Judicial District: District of Massachusetts
Claimant: Vileika Soto-Nunez

Dear Mr. Kerner:

The Drug Enforcement Administration (DEA), has received your client's submission for the above referenced asset(s). If the submission was intended to be processed as a Claim, contesting the forfeiture in federal court, it was defective for the reasons noted below. Accordingly, the submission is being returned to you.

X The submission did not state claimant's interest in the property.
See 18 U.S.C. § 983(a)(2)(C)(ii).

Please explain ownership interest. At the time of seizure Vileika Soto-Nunez denied ownership of the referenced currency. Furthermore, as set forth in the claim, Vileika Soto-Nunez states that the currency "had been given to [her] to hold and keep safe by the owner of the currency."

As a matter of discretion, your client shall be provided **twenty-eight (28) days** from the date of this letter to cure any deficiencies noted above and file a valid Claim with the Forfeiture Counsel at the address noted below. Your client may also submit the corrected claim on-line (if the on-line option is still available) at <https://www.forfeiture.gov/FilingClaim.htm>. If the on-line claim option is no longer available, then your client must submit a paper claim to the physical address noted below. In addition, if the clarifications and/or corrections are not made, the DEA may treat the documents as nugatory, and the case shall proceed as though the documents had not been tendered. See 28 C.F.R. § 8.10(g). The submission of a false Claim may subject your client to criminal prosecution and penalties pursuant to 18 U.S.C. § 1001.

Claims regarding this matter must reference the DEA asset identification number(s) noted above. If mailed, the Claim must be addressed to the Forfeiture Counsel, Drug Enforcement Administration,

Asset Forfeiture Section, 8701 Morrisette Drive, Springfield, Virginia 22152. A Claim will be deemed *filed (or submitted)* on the date it is actually submitted on-line, or if mailed, when received by the Forfeiture Counsel at the address listed above.

Claims which are mailed in **will not be accepted nor considered filed on federal holidays**. A Claim is **not** considered filed or submitted when it is received by any other office or official, such as a court, United States Attorney's Office, or local DEA office. In addition, a Claim is not considered filed or submitted if received by facsimile transmission. Finally, a Claim is not considered filed or submitted on the date it is mailed or delivered to any person for delivery to the Forfeiture Counsel.

Sincerely,



Asset Forfeiture Section
Office of Operations Management

Enclosure